

AMENDED IN ASSEMBLY MAY 15, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2420**

**Introduced by Assembly Member Richman**

February 21, 2002

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An act to amend Section 1375.5 of, and to add Section 1375.7 to, the Health and Safety Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

AB 2420, as amended, Richman. Health care service plans.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation and licensing of health care service plans by the Department of Managed Health Care and makes the willful violation of any of the act's provisions a crime. This act prohibits a contract between a health care service plan and a risk-bearing organization, as defined, from including any provision that requires the risk-bearing organization to be at financial risk for the provision of health care services unless the provision has been first negotiated and agreed to by the parties or is included within a contract meeting specified criteria.

This bill would provide that no health care service plan contract that is issued, amended, or renewed in this state on or after July 1, 2003, shall require or allow a health care service provider, as defined, to assume or be at any financial risk, as defined, for certain designated items *administered in an outpatient setting* that would be funded, instead, by the health care service plan, subject to any applicable copayment or deductible. The bill would specify, however, that a health care service provider may request in writing to assume the financial risk for these

items when negotiating an initial contract or renewing a contract with a health care service plan. The bill would also require the department to report to the Legislature by July 1, 2005, on whether the services that would be excluded from the contracts specified in the bill should continue to be excluded and whether other services should be added.

Because this bill would impose a requirement regulating health care service plans, the willful violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1375.5 of the Health and Safety Code  
2 is amended to read:

3 1375.5. No contract between a risk-bearing organization and  
4 a health care service plan that is issued, amended, delivered, or  
5 renewed in this state on or after July 1, 2000, shall include any  
6 provision that requires the risk-bearing organization to be at  
7 financial risk for the provision of health care services, unless the  
8 provision has first been negotiated and agreed to between the  
9 health care service plan and the risk-bearing organization.

10 This section shall not prevent a risk-bearing organization from  
11 accepting the financial risk pursuant to a contract that meets the  
12 requirements of Section 1375.4.

13 SEC. 2. Section 1375.7 is added to the Health and Safety  
14 Code, to read:

15 1375.7. (a) The Legislature finds the following:

16 (1) Because of the nature and cost of certain medical items, the  
17 financial risk of these items is better retained by the health care  
18 service plan than by a health care service provider.

19 (2) Allowing a health care service provider to take the financial  
20 risk for the items described in this section only if the provider



specifically requests in writing to assume that risk, will assist in maintaining patient access to health care service providers.

(b) (1) Notwithstanding Section 1375.5, no health care service plan contract that is issued, amended, delivered, or renewed in this state on or after July 1, 2003, shall require or allow a health care service provider to assume or be at any financial risk for any item described in subparagraphs (A) to (F), inclusive, when covered under the applicable plan contract *and administered in an outpatient setting*, that shall, instead, be funded and paid for, subject to any applicable copayment or deductible, by the health care service plan.

(A) Chemotherapeutic medications and adjunct pharmaceutical therapies for side effects.

(B) ~~Drugs~~ *Injectable drugs*, medications, or blood products used for hemophilia.

(C) ~~Medications~~ *Injectable medications* related to transplant services.

(D) Injectable medication or medication in an implantable dosage form costing more than five hundred dollars (\$500) per patient per year, based on the average wholesale price, as published in the Drug Topics Red Book.

(E) Adult vaccines.

(F) Self-injectable medications.

(2) Notwithstanding the provisions of paragraph (1), a health care service provider may *assume financial risk for the items described in subparagraphs (A) to (F), inclusive, of paragraph (1) after making the request in writing at the time of negotiating an initial contract or renewing a contract with a health care service plan, to assume the financial risk for any item described in subparagraphs (A) to (F), inclusive, of paragraph (1).* ~~care service plan. No health care service plan may request, require, or imply that as a condition of the contract agreement a health care service provider shall request to assume the financial risk for any of those items.~~

(c) *For a contract between a health care service plan and a health care service provider that is issued, amended, delivered, or renewed in this state on or after July 1, 2003, and does not include financial risk for the items described in subparagraphs (A) to (F), inclusive, of paragraph (1) of subdivision (b), the health care service plan shall reimburse the health care service provider on a*

1 *fee-for-service basis at the negotiated contract rate for any of those*  
2 *items that the health care service provider has purchased.*

3 (d) The following definitions apply for the purposes of this  
4 section:

5 (1) “Financial risk” means any contractual financial  
6 agreement between a health care service provider and a health care  
7 service plan for services rendered to a patient or enrollee if the  
8 reimbursement from a health care service plan is other than a fee  
9 for service rate structure. “Financial risk” includes, but is not  
10 limited to, capitation payments, case rates, and risk pools.

11 (2) “Health care service provider” means an individual,  
12 partnership, group, or corporation lawfully licensed or organized  
13 under Division 2 (commencing with Section 500) of the Business  
14 and Professions Code, unless specifically exempt from those  
15 provisions, or licensed under Section 1204 or exempt from  
16 licensure under Section 1206 that delivers, furnishes, or otherwise  
17 arranges for or provides health care services. “Health care service  
18 provider” does not include a health facility as defined in Section  
19 1250.

20 ~~(d) (1) Beginning July 1, 2003, if the contract between the~~  
21 ~~health care service plan and the health care service provider~~  
22 ~~includes financial risk, a health care service plan shall reimburse~~  
23 ~~a health care service provider for the items listed in subdivision (b)~~  
24 ~~on a fee-for-service basis at the negotiated contract rate. If no~~  
25 ~~negotiated contract rate exists, the health care service plan shall~~  
26 ~~reimburse a health care service provider for these items according~~  
27 ~~to the process described in paragraph (2).~~

28 ~~(2) A health care service provider shall acquire an item listed~~  
29 ~~in subdivision (b) in a method that does not impair the ability to~~  
30 ~~deliver patient care in a timely and high quality manner and at the~~  
31 ~~lowest cost available to the health care service provider. The health~~  
32 ~~care service provider shall submit to the health care service plan~~  
33 ~~a claim specifying the costs for acquisition of the item and any~~  
34 ~~additional cost related to the acquisition of the item such as drug~~  
35 ~~wastage. The health care service plan shall pay the health care~~  
36 ~~service provider the total costs stated in this claim.~~

37 (e) This section shall not preclude any payment by a health care  
38 service plan to a health care service provider for the performance  
39 of any services related to quality measures and programs.

1 (f) This section shall not apply to a contract that is between a  
2 health care service plan and a health care service provider who  
3 meets the criteria set forth in paragraph (2) of subdivision (g) of  
4 Section 1375.4 or to a contract between health care service plans.

5 (g) The Department of Managed Health Care shall report to the  
6 appropriate policy and fiscal committees of the Legislature by July  
7 1, 2005, on whether the services listed in subdivision (b) should  
8 continue to be excluded from contracts and whether any other  
9 services should be added to that list.

10 SEC. 3. No reimbursement is required by this act pursuant to  
11 Section 6 of Article XIII B of the California Constitution because  
12 the only costs that may be incurred by a local agency or school  
13 district will be incurred because this act creates a new crime or  
14 infraction, eliminates a crime or infraction, or changes the penalty  
15 for a crime or infraction, within the meaning of Section 17556 of  
16 the Government Code, or changes the definition of a crime within  
17 the meaning of Section 6 of Article XIII B of the California  
18 Constitution.

